

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION

FILED

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U.S. DISTRICT COURT  
N.D. OF ALABAMA

ALTON C. TURNER,

Plaintiff,

**VS.**

LARRY AMERSON, et al.,

**Defendants.**

CV 02-TMP-3029-E

**ENTERED**

MAR 10 2003

## MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on February 13, 2003, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed under 28 U.S.C. § 1915A(b) for failing to state a claim for which relief can be granted. The plaintiff filed objections to the report and recommendation on March 6, 2003.

For the most part, plaintiff merely restates the allegations of his complaint, but he adds that the defendants failed to notify inmates of the change in policy or post notices on the bulletin board that they must ask to be screened for “insidious airborne infectious diseases.” At most plaintiff is now alleging that the defendants were negligent in failing to inform inmates about the current procedure for obtaining medical tests. Negligence alone does not raise a constitutional issue, there must be an abuse of government power to raise an ordinary tort by a government agent to the . . . [status] of a violation of the Constitution. *Rankin v. City of Wichita Falls, Texas*, 762 F.2d 444 (5th Cir.1985). Plaintiff’s complaint that the defendants did not post a notice on the bulletin board regarding a change of policy does not allege a constitutional claim.

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Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED. Accordingly, the complaint is due to be dismissed pursuant to 28 U.S.C. § 1915A(b) for failing to state a claim for which relief can be granted. A Final Judgment will be entered.

DATED this 10<sup>th</sup> day of March, 2003.



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WILLIAM M. ACKER, JR.  
UNITED STATES DISTRICT JUDGE